Information sessions

The General Data Protection Regulation

Compliance monitoring by the CNPD

19th October 2017

Esch-sur-Alzette (Belval)

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Commissioner

Agenda

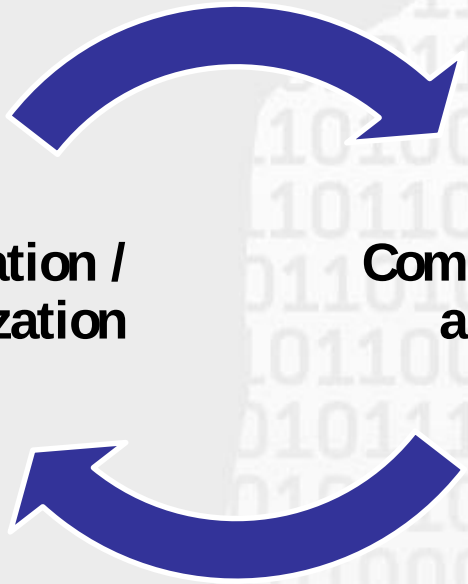
- Tasks and powers of the DPA
- Approach
- Investigation -key steps
- Practical recommendations

Tasks and powers of the DPA

Paradigm shift

No mandatory regular reporting towards CNPD

But: The accountability principle requires **documentation and internal reporting**



Tasks and powers of the DPA

Article 57 Tasks: Each supervisory authority shall on its territory:

- **monitor and enforce** the application of this Regulation
- **conduct investigations** on the application of this Regulation, including on the basis of information received from another supervisory authority or other public authority;
- **monitor relevant developments**, insofar as they have an impact on the protection of personal data, **in particular the development of information and communication technologies** and **commercial practices**;
- …

Article 58 Powers: Each supervisory authority shall have all of the following investigative powers:

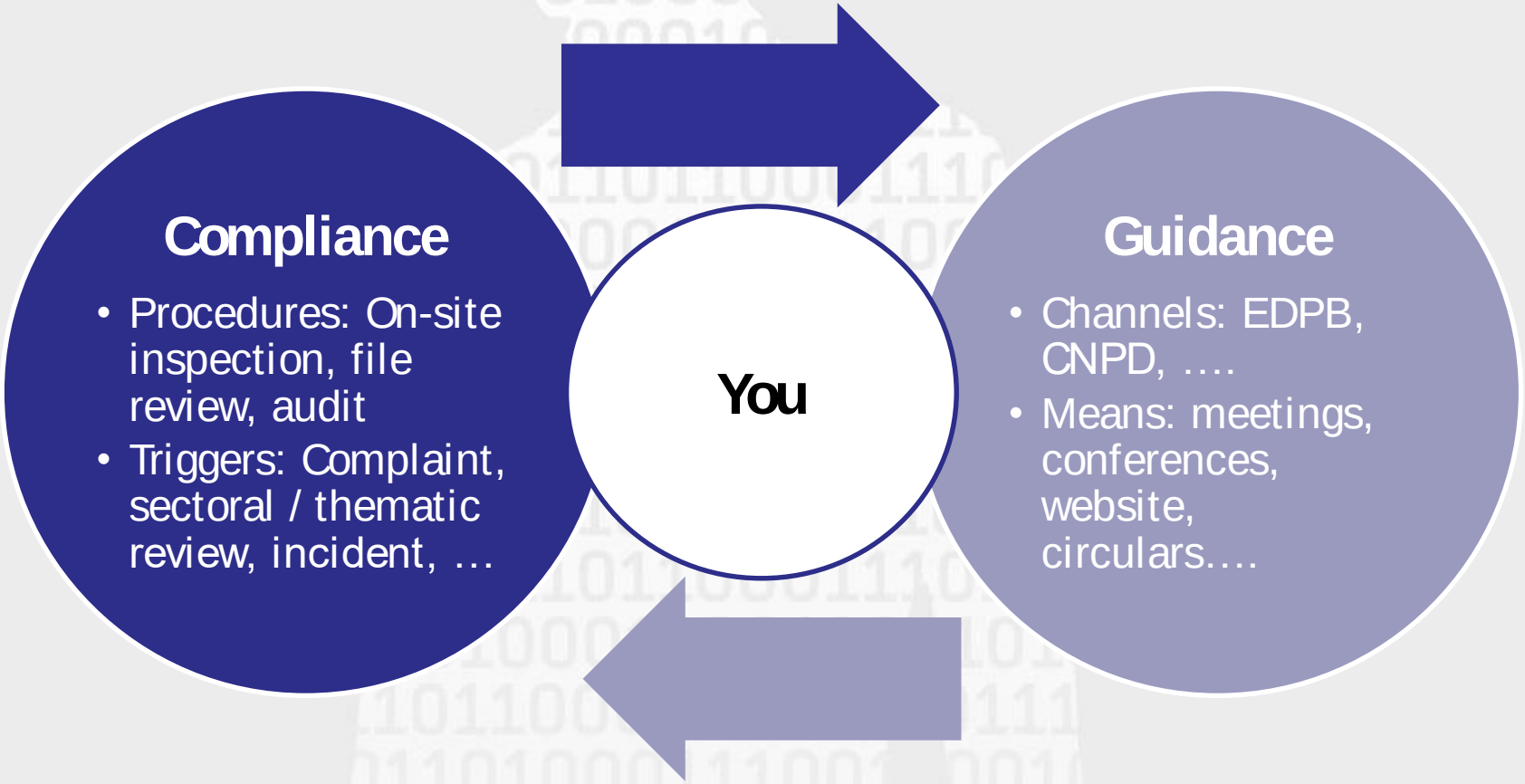
- to carry out **investigations in the form of data protection audits**;
- to obtain, from the controller and the processor, **access to all personal data and to all information necessary** for the performance of its tasks;
- to obtain **access to any premises of the controller and the processor**, including to any data processing equipment and means, in accordance with Union or Member State procedural law.
- …

Approach

Controls and its objectives

- Identify recurring and specific problems
- Check upon correct implementation of guidance
- Investigate in case of reported problems
- Verify the implementation of action / mitigation plans

The right balance



Organizational setup

- On-site inspection
- Audit
- Certification
- Data breach

CNPD — Sanctions

- Compliance
- Guidance
- Administration

Subject matter experts

Stakeholders

Commissioners

Head of investigation

Investigator

Expert

European cooperation

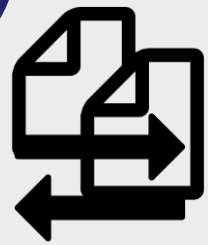
Types de contrôle

On-site inspection

- Inspection at the premises of the controller / processor
- Specific/limited scope
- One-off visit – where applicable triggers a file review

File review

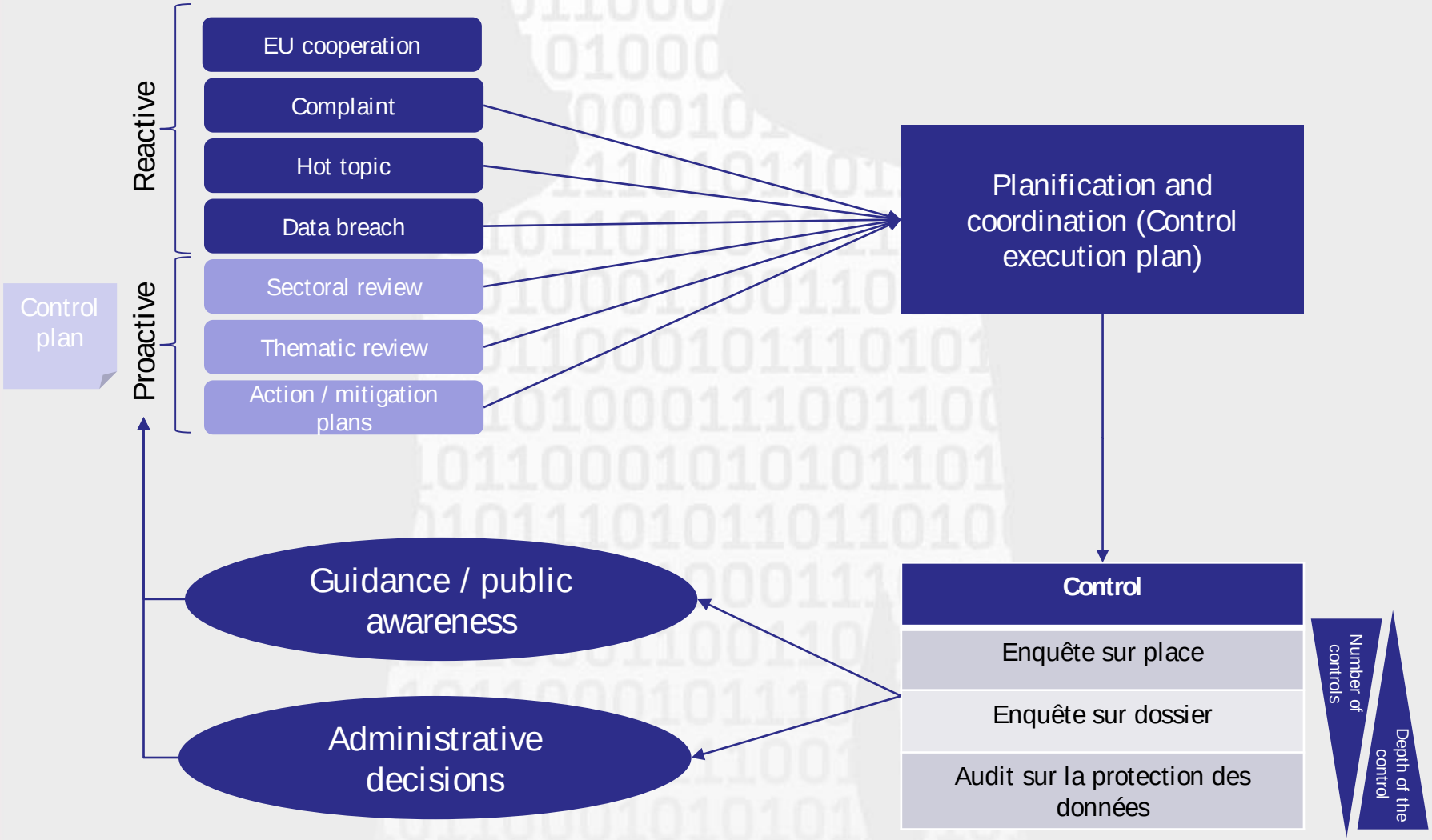
- Questionnaire including a document request
- Review of answers and other relevant documents
- Switch to on-site inspection or data protection audit according to preliminary results



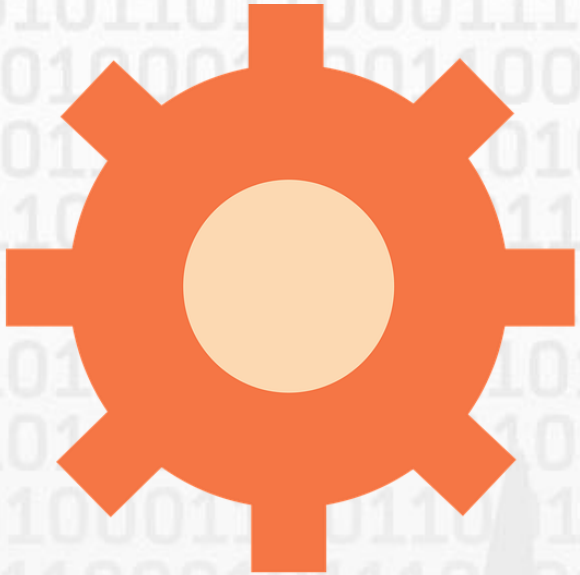
Data protection audit

- In depth review – broader in scope
- Multiple exchanges in form of meetings and off-site communication to exchange information and documents
- Risk based adaptation – refinement of scope during audit execution

Control framework



Control - key steps



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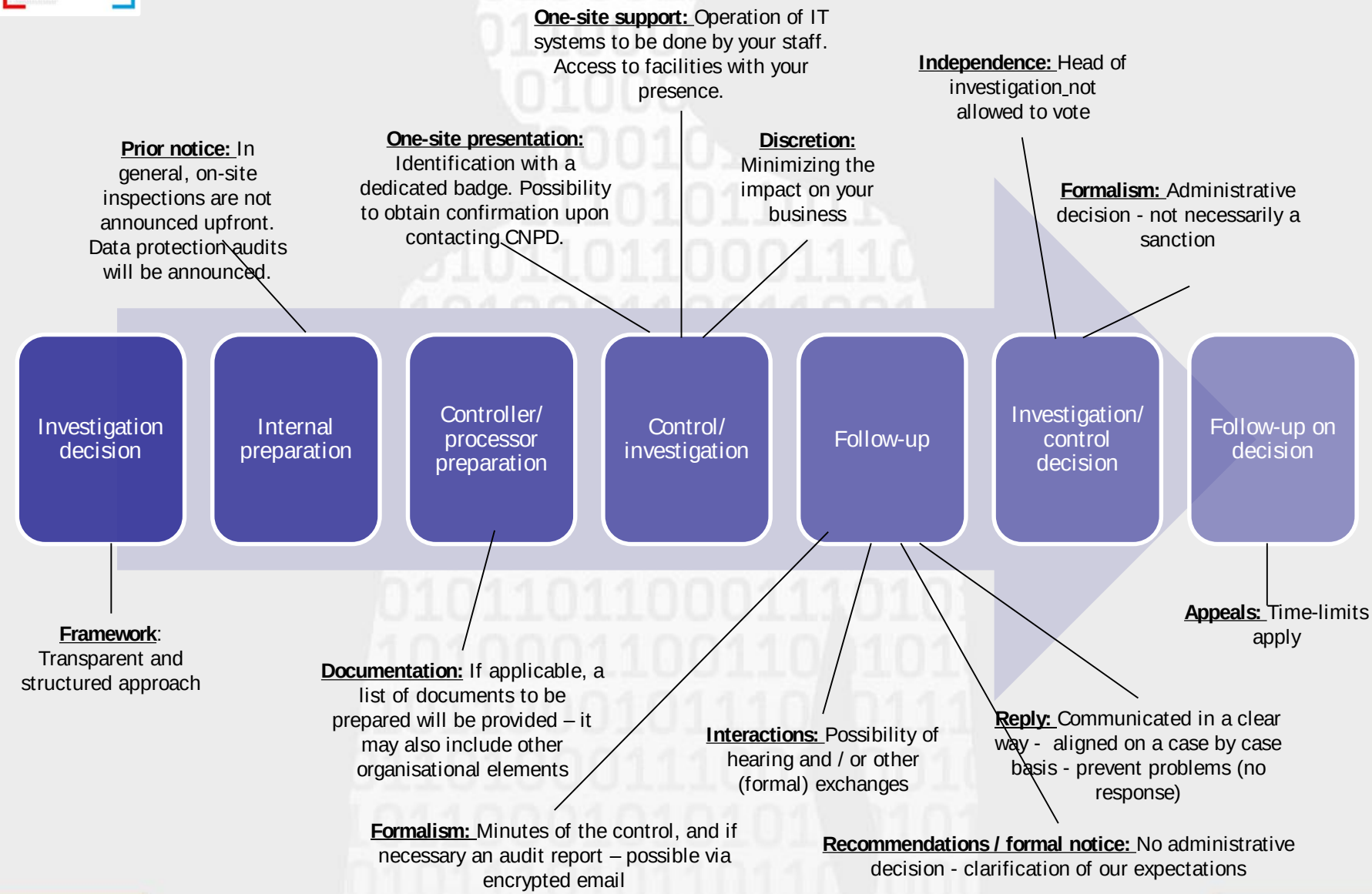

Practical recommendations

Before the control

Inform your staff of the possibility of a control/investigation

Define upfront an internal point of contact - check his availabilities

Inform yourself on where to find relevant data protection documentation – if applicable together with relevant personnel

If applicable involve the DPO in the setup of internal procedures

Involve relevant personnel since the beginning (in particular for on-site inspections and data protection audits)

Avoid problems in the first place: Complaints, data breaches, lack of follow up on mitigation plans,…

During the control

- Be transparent cooperative and honest
- Check quality and completeness of documents and other elements that you provide us
- Be specific in yours answers – avoid potential misunderstandings
- If applicable – make sure relevant experts are available (e.g. IT)
- Keep up mutual respect - professionalism and politeness
- Be proactive in case relevant elements have not requested explicitly
- Don’t hesitate to ask questions

After the control

- Check the minutes and provide us your comments
- Respect the deadlines
- Stay available and reachable for questions
- Take into account recommendations and notices
- Inform us about measures already taken or that you plan to take – including a formal commitment and deadlines
- Check completeness and accuracy of documents and other elements that you have provided us (in particular if a document request has been provided upfront)
- Don’t hesitate to contact us for any questions
- You have to right for a hearing – avoid possible misunderstandings

After the decision

- Review the decision – a decision does not always include a sanction
- Be conscious about time-limits that apply for appeals
- Don't hesitate to contact us for any question or comment
- Respect the potential commitment that you engaged for (e.g. implementation of mitigation plans)
- If applicable – check witch actions you need to take (e.g. stop or change certain processing activities)
- If applicable – communicate with us if it in case it is impossible for you to implement the decision